File No. 243

Collection No.

243
1933

19 33.

Mysore Residency

Bangalore.

27/6/47

Pros. Serial Nos. 1-10 12

Subject.

Application of the Parsee Marriage and Divorce Act to the Civil and Military Station, Bangalore.

Previous References.

Later References.

RF 12-0/1942
RF 271-44

S. 97.—(Blue).

MFP—168S&P—(M-184)—11-8-34—60,000.

paras 22 [illegible]
of Office notes
Astrayed
[illegible]

NOTES AND PRECIS.

FILE No. 243 1933.

Section. File No.

Heading. Serial No.

NOTES.

DEPT. BRANCH.

Pres. 19 Nos.

Subject.

Application of the Parsee Marriage and Divorce Act to the Civil and Military Station, Bangalore.

Notes and Orders.

S. 1.

MGIPC—S1—1027 (GPS)MFP—(M-753)—21-8-34—6,00,000.

S.N.1
P.C. C.I
Colln (I)

Memorial dated the 30th Novr., 1933 from Mrs. R.D. Belgamwalla to the Viceroy and Governor General of India and letter of the 2nd Dec. '33 from messrs King and Partridge

Colln (I) S.N.2 P.C. C.II

Memorial dated the 4th December 1933 from Mr. M.A.T. Coelho, B.A., B.L., Counsel for Mr. D.K. Belgamwalla.

Colln (I)

D.O. letter from Mrs. Belgamwalla dt 6th XII-33 and 14-Jan '33.

1

Mr. D.K. and Mrs. R.D. Belgamwalla were parties in a matrimonial suit O.M.S. No.15 of 1933 on the file of the High Court of Judicature at Madras for dissolution of their marriage. The Court declined to entertain the petition on the ground that it had no jurisdiction to grant any relief by way of divorce or otherwise to a Parsi residing in Bangalore Cantonment unless the Parsi Marriage and Divorce Act was extended ~~under the Indian (Foreign Jurisdiction) Order in Council 1902~~ to such Parsis residing in the Cantonment area and the area brought under the jurisdiction of the Madras High Court.

Page 8 of the judgment attached S.N.2/a

2

Mr. Justice Stone in the course of his Judgment remarks as follows:

> "Unfortunately the latter Act (the divorce Act) has left out the position of Parsis who have been residing in a Cantonment. That, in my opinion, leaves parties like the present in the unhappy position of having no adequate remedy. ..... Unless there are reasons of high policy, of which I know nothing, it would seem desirable to remove this

Page 8 of the judgment attached to P.C. C.II S.N.2

this apparent omission. That, however, is a matter for the appropriate authorities. I think I am justified in saying that this is, in my opinion, as at present advised, a case which they may favourably consider with a view to seeing whether it is not desirable firstly to extend this Act to the Cantonments and secondly to include within the jurisdiction of this Court that extended area".

The Court simply declared that it had no jurisdiction without dismissing the petition to enable the plaint to be~~ing~~ × to the party returned for presentation later to the proper Court when one is constituted.

Vide extract Order VII Rule 10 at slip (E)

3

The Petitioners Mrs. R.D. Belgamwalla and Mr. Coelho, Counsel for Mr. D.K. Belgamwalla, therefore # pray for orders of the Governor General in Council, making the Parsi Marriage and Divorce Act applicable to the Parsi residents of Bangalore Cantonment, and constituting a proper matrimonial Court with powers to deal with matters arising under the said Act in respect of Parsis residing in the Bangalore Cantonment or including Bangalore within the jurisdiction of the Chief Parsi Matrimonial Court at Madras. It is urged by Mrs. Belgamwalla that there are over 200 Parsis residing in the Civil and Military Station of Bangalore.

#, Para 4 Page 5 of S.N. 2 and 6 S.N. 1/A

Para 9 of P.W.C. I.

4

× S.N. 75/C 508-85 (B)

Referring to the Rules regarding the submission of petitions to the Government of India, Rule 11(13) reads

as

as follows:

"Local Governments are vested with discretionary power to withhold petitions addressed to the Governor General in Council in the following cases;-

* * ** ** * *

When a petition makes a proposal regarding legislation which the local Govt. is not prepared to support".

The question is whether the local Government is prepared to support the proposal for legislation. It is usual in such cases (proposals for the application of an Act to the Station) to consult the District Magistrate - Vide S.N.2 of Collection No.218/1915 (N). It is for consideration whether the District Magistrate may be consulted as usual or whether in view of the observations of Mr. Justice Stone, the memorials may be forwarded to the Government of India with support.

5

If the Act is to be applied to the Station, the question arises as to the Court which is competent to exercise jurisdiction in such cases arising under the Act. In the memorial (Mr. Coelho's) Mr. Coelho suggested (and in the penultimate para of the judgment in Application no. 2893/33) it is suggested that the Station might be brought under the jurisdiction of the Parsi Chief Matrimonial Court at Madras. But this does not seem necessary in view of sections 15 and 17 of the Act which lays down (in effect that when the local Govt. have constituted a special Court) the Judge of the principal Court of original civil jurisdiction at such place shall

4 & S.N. 2
1(c) & (f) S.N. 2/a
P.U.C. II

× Page 1129 Vol. I
Statutory Rules & Orders
(Statutory)

be

be the Judge of such Matrimonial Court". The District Judge Bangalore is the Judge of the Principal Court of Original Civil Jurisdiction in the Station. He will under section 17 of the Act as applied, be the Judge of the Matrimonial Court. No reason has been given to oust the jurisdiction which will otherwise vest in the District Judge. If it is proposed to consult the local officers the views of the D.J. also may be obtained. The District Magistrate in what case may be asked to send his proposals through the District Judge.

6

Two alternative drafts and a reply to Mrs. R.D. Belgamwalla are submitted.

Sthanarayanam
27/1/34

(Draft Para 1)

Enquiries
Left
To the D.J. C/o
for remarks.

U/O No. 305 Dated Bangalore 10th January 1934
To The District Magistrate, C & M Station Bangalore
with the request that it may be returned to this office through the District Judge, C & M Station, Bangalore.

11.1.34.

DISTRICT SESSIONS COURT
11 JAN. 1934
CIVIL & M.LY STATION

As a matter in which he wishes the D.J. will be more suitable than mine for consideration. Let the file be sent to the D.J. and that the Dr. Judge should have the jurisdiction

10.1.34

DESPATCHED
11 JAN. 1934

Asst. Commr. Judge C/o

Submitted.

9

Part 9 S.N.1/a

~~and to part I~~

Cothv. (V)

There are, as could be gathered from the memorials, about 200 Parsi families living in the Civil and Military Station, Bangalore and as Act XV of 1865 has not been extended to the station the Parsis of this place are without any relief whatever against matrimonial wrongs This must necessarily lead in some cases to great hardships and acute sufferings. There can therefore be no objection whatever for the extension of the Act to the station; in fact it seems to me to be absolutely necessary.

(2) The constitution of a Court for the trial of the proceedings under this Act is the next point to be considered. Section 17 of the Act provides for the establishment of District Matrimonial Courts for the trial of cases arising under the Act. That section further specifically stipulates that the Judge of the Principal Court of Original Civil Jurisdiction shall be the judge of such District Matrimonial Courts. The idea of the legislature in enacting the provisions for the establishment of District Matrimonial Courts seems to be, to give facilities for the Parsis living in the mofussil to take advantage of the provisions of the Act.

(3). The suggestion of bringing the Civil and Military Station of Bangalore within the jurisdiction of the Chief Matrimonial Court at Madras ~~are~~ is open to the following two main objections. (i) The inconvenience in taking up the witnesses to Madras and the consequent costs that may have to be borne by the parties in having their case heard in Madras will be too prohibitive for the poor and middle class Parsis to take advantage of the provisions of the Act. (ii) The provisions of the Act do not warrant the extension of the territorial jurisdiction of the Matrimonial Courts situated in the Presidency towns beyond the limits

territorial limits of the Presidency in which they are situated. (See sections 15, 16 and 19).

I am therefore in favour of the extension of the Act to the Civil and Military Station and for the constitution of a District Matrimonial Court as per section 17 of the Act in Bangalore.

P Nadkarni

District Judge.
12/1/1934.

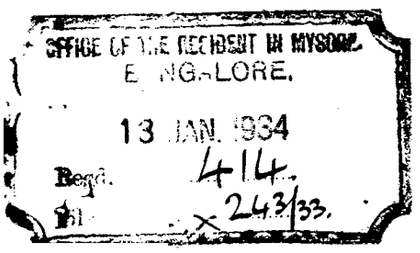
TAG

UO.No.252.

12 - 1 - 1934. To

The Secretary to the Hon'ble the
Resident in Mysore, Bangalore.

2/13/1



10

The District Magistrate and the District Judge support the proposal for the application of the Parsi ~~and~~ Marriage and Divorce Act to the C. & M Station. Bangalore. The latter is also in favour of the constitution of District Matrimonial Court at Bangalore.

For orders as to the issue of the drafts to the Govt. of India and Mrs. Belgamwala.§

P. Nadkarni
10/1/34

Secy

(From Para 1)
would the addl Judge kindly favour the Resident with any remarks he may have to make on draft I.
15/1/34

Issued No 465 A. the 15th 1-34

§ vide (T)

12 I think that the Act should be extended to Bangalore Cantt.

(2) There is only one reason, as far as I can see, why Bangalore Cantt should be grouped with the districts of the Madras Presidency under the jurisdiction of the Madras High Ct that is (that Ct, by virtue of its status & its ~~practice~~ experience in dealing with such suits, is by far the most competent Ct to deal with matrimonial disputes. There must be very few cases indeed in which Parsi residents of Bangalore Cantt wd desire divorce & the D J, Bangalore Cantt wd not ordinarily have had any experience at all of such suits.

Bangalore is Madras is far more accessible to the residents of Bangalore than to those of many parts of the Madras Presidency; & I do not think that the Parsis of Bangalore Cantt wd be subject to any great hardship in having to go to Madras.

I therefore recommend that the Act be extended to Bangalore Cantt & the districts of the Madras Presidency, for the purposes of the Act, be within the jurisdiction of the Madras High Ct.

7/2/34

13

Please see from Para 1.

Para 3 of the draft and the Notification have been revised with reference to the views of the Additional Judge at Para 12 ante. For orders as to the issue of the draft to the Government of India.

W. marar.
9.2.'84.

(from Pa. - 11)

Seen.

14

I think we must accept the view of Addl Judge that the Madras HC. should have jurisdiction. It appears from the judgment of Mr. Justice Stone that the Madras HC. is the only Court in the whole of the Madras Presidency which exercises jurisdiction in Parsi marriage cases. This being the case, it would be wiser for us to entrust to that Court the very few cases which are likely to arise from Bangalore, rather than try to decide them locally. Madras is more accessible to residents of Bangalore than it is to many residents of the Madras Presidency; and the distance is not likely to be any real deterrent to prospective parties.

With reference to para. 3 (ii) of District

Judge's note at para. 9 of notes, does not see anything in secs. 15, 16 and 19 of the Act to contradict the view that the Rangoon H.C. can properly be given jurisdiction.

The draft may issue?

C.Bke

15.2.34

Read

H.
17/2/34.

S.N.S
Cothw (Y)

Issued No. 1637/243-1933 dated 27/2/34.

S.N.4

~~Parsi~~ Cothw (8)

Letter No.827-B-34, dated the 16th February 1934, from the Collector, C & M Station, B a n g a l o r e.

Application of the Parsi Marriage & Divorce Act to the C & M Station, Bangalore.

15

Separate action has been taken at the instance of Mrs. and Mr. Belgamwalla, the parties to the matrimonial suit, for the application to the C & M Station, Bangalore, of the Parsee Marriage and Divorce Act 1865, and for bringing the Station under the jurisdiction of the Madras High Court for the purposes of the Act. The case is now awaiting the orders of the Resident. The resolution of the Bangalore Parsee Zorostrian Anjuman, now forwarded by the Collector, raises no new point for consideration. It does not seem necessary to forward ~~this resolution~~ it to the Government of India. It may be filed.

orders passed and letter since issued to the G.of I.

Silvera 24/2/34.

(Parsi Mar.)

Ue 24/2

Done Secy. 16

The resolution may be brought on the main file on which the question is being considered; and a copy of it might be forwarded (in due course) to G. of I. in support of our recommendation that the High Court at Madras should have jurisdiction.

Meanwhile we may at once formally acknowledge receipt of the Resolution and say that it will receive sympathetic consideration.

Clone
28.2.34

Rec'd
17

We have already addressed the 9th in the matter. A copy of the Res^{n} may be forwarded to them as proposed.

We may inform the B'Core Parsee Zoroastrian Anjuman of action taken.

[illegible]
6/3/34

Clone
8/3

Reference paras 16 and 17 ante.

* S.N.4/b
~~Encl. to P.U.C.~~
Collns. (Y)

18

The resolution makes two alternative suggestions as to the Court which should be invested with jurisdic It may perhaps be sufficient simply to forward the resolution to the Government of India.

Two drafts (1) to the Government of India
(2) to the President of the Parsi Zoroastrian Anjuman,

are submitted.

Secretary.

W. Marar.
17/3/34.

(Para 18 only)

19 That is all That is necessary.
Drafts may issue. I will sign for Resdt.
(Office will see That Resdt's note of 17.2.34 was
never shown to me on its return journey to
office. Had it been shown to me, I should
not have remained unaware on 28.2.34 That
the G. of I. had already been addressed).

Clow
14.3.34.

Collns (Y) { S.N.5 Issued No. 2215 dated 23rd March 1934.
S.N.6 Issued No. 2172 dated 21st March 1934.

~~PUC~~ - S.N.7.

Colln. (Y)

Endorsement from the Foreign and Political Department forwarding a copy of their Notification No,142-I, dated the 11th April 1934.

--

× Colln.'Y' (20)

Please see S.Nos.1 to 4

A copy of the Notification may be communicated to

✓ (1) The Collector and District Magistrate C & M Station, Bangalore, for information.

✓ (2) The District and Sessions Judge " "

✓ (3) The Registrar, Resident's Court " "

✓ (4) Messrs. King and Partridge, Madras, with reference to S.N.1 — Colln. (Y)

✓ (5) Mr. M.A.T. Coelho, Advocate, Madras, with reference to S.N.2 — Colln. (Y)

✓ (6) The President, Bangalore Parsee Zorastrian Anjuman, with reference to S.N.4/a Colln. (Y)

✓ (7) Mrs. Belgaumwalla, with reference to our letter at (3)

Verified
tc

Action will be taken after orders are passed by Secy.

The Notification has already been published in the Gazette of India dated the 14th April 1934. It may be * republished in the Mysore Residency Orders for public information.

Draft submitted.

Kora Chandra
26-4-34

(Para 20 only)

P.C.K.
27.4.34

Secy

(21)

Issue draft. After this has been done and arrangements been made for republication * of Notifn in Residency Orders, Resdt should see the para for information. This question has been satisfactorily and promptly settled.

Lone
28.4.34

The notification has been republished in the Resy.Orders dated 1-5-1934.

tc

Secy to H.R.

S.N.8
Colln.'Y'

Issued No.3294, d/6-5-1934

S.N.1

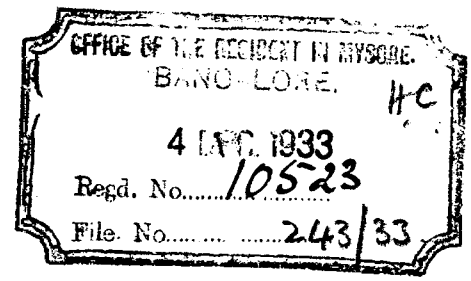
REGISTERED.

KING & PARTRIDGE,
SOLICITORS, NOTARIES
AND
COMMISSIONERS FOR OATHS.
MADRAS AND OOTACAMUND.
PARTNERS:
PERCIVAL WALTER PARTRIDGE.
WILFRID HAZELL SELL.
HUGH JOHN MAITLAND JONES.
LEONARD MAINWARING TAYLOR.
TELEGRAMS: "REGAL".
CODES: A.B.C. 5TH & 6TH
BENTLEY'S.
TELEPHONE Nº 3911. (2 LINES)
POST BOX Nº 121.

E. D. 4/XII

7, Kondi Chetty Street,
Madras.

2nd December, 1933.



From

Messrs. King & Partridge,
Solicitors, M a d r a s.

To

The Hon'ble the Resident,
Bangalore Cantonment.

Sir,

On behalf of our client Mrs. R.D.Belgaumwalla, we have the honour to enclose herewith a Petition and request that you will be so good as to forward it to His Excellency the Governor-General In Council for necessary action.

We beg to add that from our client's point of view the matter is an urgent one as ever since she had left her husband she has received no maintenance for her or for her child the issue of the marriage.

Our client will be grateful if you will be so good as to recommend that the petition may be considered favourably and necessary orders passed thereon as early as convenient.

We have the honour to be,
Sir,
Your most obedient servants,

Enc.
CK:KSR.

King & Partridge

To

His Excellency
The Right Honourable Lord Willingdon of Ratton,
G.C.S.I., G.C.I.E., G.C.M.G., G.B.E.,
Viceroy and Governor-General of India
in Council, New Delhi.

The Humble petition of Mrs. R.D.Belgaumwalla residing at St. Marthas Hospital, Bangalore City, Mysore.

Your petitioner above-named states as follows:-

1. Your petitioner is a domiciled British Subject and belongs to the Parsi community having been born in Bombay of Parsi parents who are still living in the Bombay Presidency.

2. Your petitioner came to Bangalore and was there married to one D. K. Belgamwalla on the 10th July 1924 and at all material times up to 9th June 1933 had been residing with her husband in the Bangalore Cantonment. The petitioner's husband is a permanent resident of Bangalore Cantonment.

3. By reason of certain matrimonial offences committed by the petitioner's husband, your Petitioner had to leave her husband on or about the 9th June 1933 and has since been living in St. Marthas Hospital, Bangalore City.

4. With a view to take proceedings for the dissolution of her marriage under the Parsi Marriage and Divorce Act (Act XV of 1865) your petitioner consulted various legal advisers who advised her that in view of the provisions of the said Act neither the Madras High Court nor any other Court either in the Bangalore Cantonment or in British India had jurisdiction to deal with any proceedings she might have to take under that Act.

5. While your petitioner was taking legal advice as aforesaid your petitioner's husband filed a Petition O.M.S. No.15 of 1933 on the file of the High Court of Judicature at Madras for dissolution of his marriage with your petitioner. Your petitioner thereupon sought to take similar action in the same Court but your petitioner was advised that any relief granted by a Court without jurisdiction in respect of matrimonial matters would be a nullity. Your petitioner was therefore advised to raise the question of

Jurisdiction

7

11. Your petitioner therefore prays that your Excellency in Council may be pleased to issue the necessary orders in Council extending the Parsi Marriage and Divorce Act to Parsi residents in the Bangalore Cantonment who are domiciled British subjects and constituting a proper matrimonial Court with powers to deal with matters arising under the said Act in respect of Parsis residing in the Bangalore Cantonment.

AND Your petitioner ever prays &c.

Sd. Rhoda D. Belgamvala

Dated this 30th day of November 1933.

Sd. * * *

Solicitors for Petitioner.

---:0:---

BJ 5/12/34

1(4)
5

"A"

In the High Court of Judicature at Madras
Original Matrimonial Jurisdiction.

27th day of October, 1933.

The Honourable Mr. Justice Stone.

O.M.S. No. 15 of 1933.
Appln. No. 2893/1933.

Between:-

D. K. Belgamwalla .. Petitioner.

and

Mrs. R.D.Belgamwalla & others. Respondents.

Judgment.

This summons raises a point of some novelty and importance and, owing to the ingenious argument addressed to me by Mr. Coelho, Counsel for the Petitioner, of some difficulty. I am not sure that the difficulty is inherent in the matter and is not caused by the ingenuity of the argument.

The facts are as follows: This is a petition wherein the husband seeks for dissolution of his marriage with the Respondent, and custody of the child. In paragraph 5 of his petition he alleges, "the Petitioner and the respondent, who are both Parsis by birth, were married on the 10th July 1924 at Bangalore according to the Parsi Matrimonial Rites". The petitioner at all material times had resided at the Cantonment, Bangalore. The respondent at present resides in Bangalore City. The parties were married in Bangalore City. After the marriage they have lived until the 9th of June 1933 in Bangalore Cantonment. The result of that is that at all material times the parties were residing in Bangalore Cantonment until the parties ceased to live together, and at the date of the filing of the petition, viz., 6th August 1933, the respondent was residing in Bangalore City.

Under the Parsi Marriage and Divorce Act (XV of 1865) it is provided by Section 26,

> "All suits instituted under this Act shall be brought in the court within the limits of whose jurisdiction the defendant resides at the time of the institution of the suit".

Stopping there, I observe that at the time of the institution of the suit, the respondent resided in Bangalore City.

"When

"When the defendant shall at such time have left British India, such suit shall be brought in the Court at the place where the plaintiff and defendant last resided together".

"At such time" refers to at the time of the institution of the suit, and at such time the defendant had not left British India because she had not been in British India at any time during the marriage. If, on the other hand, it can be found as a fact that she had left British India, then the suit would be required to be brought in the Court at the place where the plaintiff and the defendant last resided together, and that would be Bangalore Cantonment. So that, the alternatives are that this suit must be instituted either in Bangalore Cantonment or in Bangalore City. The jurisdiction of this High Court is founded subject to what I shall say hereafter, upon the broader aspect of the case, and assuming for the moment that the Parsi Marriage and Divorce Act is applicable upon sections 16, 17 and 19 (and the rules made under that Act) of that act. The effect of those sections and rules, bearing in mind the local rules and orders made under this Act - Judicial Notification No.509 of the 23rd November 1899 - is that all the districts in the presidency of Madras are grouped into one district for the purpose of jurisdiction, and jurisdiction over the whole of that district is given to this Court. That means that the High Court is the Parsi Chief Matrimonial Court for the presidency of Madras. The Presidency of Madras is British India and does not include foreign countries outside British India. It has been held so far as Cantonments are concerned in 12 Mad. 39 that the Civil and Military Station of Bangalore is not British territory, and a similar decision was arrived at with regard to the Cantonment of Secunderabad by the Privy Council in 60 Law Reports, Indian Appeals 167. The application of Acts passed by the Legislature of British India including the Parsi Marriage and Divorce Act is effected by orders made under the Indian (Foreign Jurisdiction) Order in Council, 1902, when it is desired to apply these acts to the Bangalore Cantonment. Various Acts have been so locally applied by Order No.261 - I dated 24th April 1929 by the Governor General in Council. That order schedules a considerable

number

number of Acts and the list of those Acts does not include the Parsi Marriage and Divorce Act. The result in my opinion - and I do not think that Mr. Coelho in his ingenuous argument really contests this position - is that where the parties, being Parsis, to a matrimonial suit reside as above-stated, they are residing in a foreign district, and not within this presidency and therefore outside the limits of the district over which this Court on its Matrimonial side is given jurisdiction. Therefore this Court has no jurisdiction to try a petition for dissolution if the Parsi Marriage and Divorce Act is applicable to the conduct of that petition; nor, so far as I know, has any other Court in British India or elsewhere power to try such a matter in such circumstances assuming such premises. But it is said that the Parsi Marriage and Divorce Act does not apply it does not apply because it is not scheduled to the order above referred to; as it does not apply one can ignore it: and, ignoring it, one can go back either to the Indian Divorce Act or to the broad general principles of justice, equity and good conscience or common law and seize jurisdiction in either one or other of those ways.

I will now deal with the argument under two heads. First, I will assume for the moment that one is considering whether this Court has jurisdiction under the Indian Divorce Act. The argument is put thus. Courts in England have decided that the Divorce Court will entertain petitions where one or other of the parties or both is not a professing christian. Matters have come before that Court and have been determined where one person was a Japanese, and it is said that the test there laid down when considering whether the Court will exercise jurisdiction is whether the Court is dealing not with professing christians only but with persons whose marriage customs are identifiable in principle with those of christians and, in particular, whether the parties are monogamous. I should have felt it my duty to have examined very carefully that statement of the practice in the English Courts were it not for the fact that the jurisdiction of Courts in England and the Jurisdiction of Courts in India are not necessarily conterminous. In India when considering this question

of

of jurisdiction I consider it my duty to look at the Indian Divorce Act. That Act commences with the preamble "Whereas it is expedient to amend the law relating to the divorce of persons professing the Christian religion and to confer upon certain Courts jurisdiction in matters matrimonial, it is hereby enacted as follows: * * Section 2. Nothing hereinafter contained shall authorise any Court to grant any relief under this Act except in cases where the petitioner or respondent professes the Christian religion. .." That being so, it seems to me that I would be exposing these parties t a very grave risk if I accept a jurisdiction for this Court notwithstanding that provision by holding that, where the Act says "professin the Christian religion", it does not mean what it says. I have had occasion several times in this Court to refer to the golden rule for the interpretation of statutes. It is a very simple rule and it is this: that a statute shall be construed primarily by giving each word used in the statute its ordinary plain grammatical meaning and, even if that results in nonsense or injustice, if the meaning is plain the Court should not depart from it. Now, "a person professing the christian religion" does not include a Parsi, and that being so, I am of the opinion that I cannot exercise jurisdiction over these Parsis in a matrimonial suit by relying upon any power vested in me by the Divorce Act.

Then, it is said, even if that be so, still Courts in British India have not had any power taken away from them by the Divorce Act. It may be that they have not got a jurisdiction in matters of this order conferred upon them by the Divorce Act, but they have not had taken away from them the powers which they previously had, and it is said that all Courts in British India have wide general powers of trying anything in accordance with the principles of common law and in accordance with the principles of justice, equity and good conscience, that it is wrong to deny these people their remedy and that the Court should therefore seize jurisdiction by looking at those broad general principles. In support of that contention certain observations made at page 309 in 13 Bom. are relied upon. I myself do not read that cas as supporting the contention urged by Mr. Coelho but such as it

is

is I will quote from page 309:

"Sir Erskine Perry in 1843, as Judge of the late Supreme Court, laid down the broad principle that Parsis were subject to the ecclesiastical jurisdiction of the Court on disputes arising out of the marriage contract. But the Privy Council reversed this decision (6 Moo. I.A.348) and held that the ecclesiastical jurisdiction extended only to Christians in questions of the restitution of conjugal rights. Their Lordships, however, at the same time intimated that the Supreme Court on its civil side might possibly administer some kind of remedy for the violation of the duties and obligations arising out of the matrimonial union between Parsis. The High Court inherited all the powers of the Supreme Court, and was also specially empowered in the exercise of its ordinary origina civil jurisdiction to "try suits of every description". Would not this wide jurisdiction cover such cases as are not within the jurisdiction of the special Parsi Court ? It must be remembered that if this power is not wide enough to cover the present cases, the parties would be practically without any remedy. They would be relegated to their Panchayat forum, which has long been without authority even as a domestic tribunal, and now hardly exists at all. This was not the intention of Government when the High Courts were established. Sir C. Word in his letter of May 14th 1862, accompanying the Letters Patent constituting the High Court of Bombay, refers to the Privy Council's decision I have cited, and says the object of the charter was to do away with all such limitations and to invest the High Court with power to determine cases of every description and to apply a remedy to every wrong. I think, therefore, the words "to try suits of every description" comprise matrimonial suits, subject of course to the provisions of the the Parsi Marriage Act, which assigns to a special tribunal most of the questions incident to the matrimonial contract, but not the questions involved in the present suit".

Now it will be seen that, if I follow in every particular what is there said, I should still have to hold that there is no Court

to

to try this case. What I am considering is the question of whether this is the Court and not whether there is any remedy. This Court has all the powers that any Court could have within the Madras Presidency as matters stand at present. It includes the whole of the Madras Presidency and it could not include any more unless and until the Parsi Marriage and Divorce Act has been applied to Bangalore. But it is urged that as the Parsi Marriage and Divorce Act has not been applied to Bangalore and as, therefore, there is no special tribunal under the Parsi Marriage and Divorce Act, this Court should accept jurisdiction under the broad and general principles outlined in that citation. It seems to me, however, that this matter has been authoritatively decided by the Privy Council in the case reported in 10 Moore P.C.Cases 375 where it was held, as indicated in the citation I have made from 13 Bombay, that, where in a suit for restitution of conjugal rights, it appears that the parties are Parsis, the Court has no jurisdiction to administer towards them the Ecclesiastical Law. That, so far as I know, is an authority that has never been set aside and that ~~xxxxxxxxxx~~ authority is binding upon me. I note what is said in 13 Bombay at page 310, that is to say, that it has been expressed administratively that the Letters Patent constituting the High Court, Bombay, was intended to do away with the sort of limitation indicated by the Privy Council decision, but I know of no principle which enables me to depart from a clear ruling of the Privy Council merely because it has stated administratively that some character was intended to do away with the limitation expressed in a Privy Council decision. But I think the matter can be placed on a broader basis than that. This Court prior to the passing of the Indian Divorce Act and prior to the passing of the Parsi Marriage and Divorce Act had got the jurisdiction conferred upon it by the old rules of the Ecclesiastical Courts; that is to say, the jurisdiction which an Ecclesiastical Court would have exercised in England, might, I think, have been exercised by a Matrimonial Court in India. The Privy Council decision held in terms that that jurisdiction, based as it was on Canon Law, applied

only

only to suits where the parties were christians, the petitioner or the respondent as the case may be, and it did not apply to cases ~~wk~~ where the party was a Parsi. If that be so at that time it seems to me that it would be necessary before this Court can be given jurisdiction for that jurisdiction to be specifically extended. Efforts have been made to extend it. It was extended by the Divorce Act so far as Christians are concerned in many particulars. It has been extended to Parsis by the Parsi Marriage and Divorce Act. Unfortunately the latter act has left out the position of Parsis who have been residing ~~&~~ in a Cantonment. That, in my opinion, leaves parties like the present in the unhappy position of having no adequate remedy. The Divorce Act in the case of christians has not left out their cases and this Court frequently exercises the jurisdiction in their cases. Unless there are reasons of high policy, of which I know nothing, it would seem desirable to remove this apparent omission. That, however, is a matter for the appropriate authorities. I think I am justified in saying that this is in my opinion, as at present advised, a case which they may favourably consider with a view to seeing whether it is not desirable firstly to extend this Act to the cantonments and secondly to include within the jurisdiction of this Court that extended area.

That disposes of the summons save as regards the precise steps that should now be taken having in view the conclusion I have come to. I am asked to strike out the petition. I do not however think that that is the right course for me to adopt. The petition as it stands discloses a case. The difficulty is not want of substantive but of adjective law. Under Order VII Rule~~s~~ 10 where there is another Court to entertain this matter I could return this plaint for it to be filed in that Court. In view of my conclusion, viz., that there is no other Court, I should not be justified in doing that As there is, in my opinion, a cause of action disclosed in the petition, though I am not competent to try that cause of action, I do not think the correct procedure would be to strike it out. What

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I think I should do is to declare that I have no jurisdiction to entertain this petition but give the petitioner liberty to apply to me for transfer under Order VII Rule 10 if and when he can satisfy me that there is a Court that can try this petition. That will enable him to take the proper steps, if he is so advised, to move the appropriate authorities to extend the Act and the limits of jurisdiction in the manner above indicated. The applicant will be entitled to costs of the application as between attorney and client.

Id. G.S.
27-10-1933.

S. N. 2

From M.A.T.Coelho, B.A., B.L.,
Advocate,
No.9, Law Chambers,
High Court Buildings,
Madras.

Regd no. 10565.
D: 5 Dec. 1933.

Dated 4th December 1933.

To

His Excellency the Governor-General in Council,

New Delhi.

Through
The British Resident of Mysore,
Bangalore Cantonment.

May it please Your Excellency,

On behalf of my client Mr. D. K. Belgamwala, a Parsee resident of Bangalore Cantonment, residing at No.5, Museum Road, Bangalore Cantonment I beg to place the following few facts, before Your Excellency's Government, for Your Excellency's kind consideration, and for necessary action:-

My client Mr. D. K. Belgamwala filed a petition, on the Original Side of the Madras High Court, for dissolution of his marriage with his wife Mrs. R.D.Belgamwala on the ground of her adultery with two correspondents mentioned in the said petition. The parties were married in Bangalore City, according to the Parsee Matrimonial rites, and they resided, at all material times, at the Bangalore Cantonment. The respondent Mrs. Belgamwala having separated from her husband, sometime before the presentation of the petition for dissolution of marriage, was residing, at the time of the presentation of the petition, in Bangalore City. The wife, having been served with the summons in the suit for dissolution of marriage, instituted by the husband against her, took out an application before the High Court of Judicature at Madras, to strike out the husband's petition for dissolution of marriage, on the ground that the Madras High Court had no jurisdiction to entertain the suit, as the Parsee Marriage & Divorce Act (Act XV of 1365) had not been made applicable to Bangalore, by order in Council, made under the Indian (Foreign Jurisdiction), although various other Acts have been made applicable, by an order No.261-1, dated 24th April 1929, by the Governor-General in Council; that order schedules a

considerable

considerable number of Acts of the Indian Legislature made applicable, by an order in Council, to Bangalore Cantonment; but the list of those Acts does not include the Parsee Marriage and Divorce Act (Act XV of 1865). By a judicial notification No.509 of the 23rd November 1899 the Local Government of the Madras Presidency have grouped into one District, all the Districts in the Madras Presidency, for the purpose of jurisdiction under the Parsee Marriage and Divorce Act, and Jurisdiction for the whole of the Madras Presidency has been given to th High Court at Madras, which has been constituted the Parsee Chief Matrimonial Court for the whole Presidency of Madras. The Presidency of Madras is British India and does not include foreign countries outside British India; and Bangalore Cantonment, like the Secunderabad Cantonment, has been held to be foreign territory and not part of Britis India, according to the decision of the Madras High Court in 12, Madras 39, and of the Privy Council in 60, Law Reports, Indian Appeals p.167, Bangalore Cantonment has not been included within the jurisdiction of the Parsee Chief Matrimonial Court of Madras. At the same time, there is no District Matrimonial Court for the Bangalore Cantonment, as the Parsee Marriage and Divorce Act has not been made applicable to Bangalore Cantonment, by order in Council. The result is, that Parsee residents in Bangalore Cantonment, have absolutely no remedy and no forum to obtain redress for their matrimonial wrongs, as there is no Court from which they can obtain any relief. The application taken out by the wife for striking out the husband's application came up before His Lordship Mr. Justice Stone, sitting on the Original Side of the Madras High Court, on 27th October 1933. His Lordship, in an elaborate judgment, a certified copy of which is, herewith enclosed, for Your Excellency's kind perusal, has held that neither the Parsee Marriage and Divorce Act (Act XV of 1865) nor the Indian Divorce Act (Act IV of 1869), nor the English Common Law relating to Marriage and Divorce, is applicable to the Parsees, who are residents of Bangalore, and His Lordship Mr. Justice Stone has pointed out, very strongly and clearly, the necessity and the advisability of Your Excellency's Government , remedying this lacuna, and defect, at the earliest possible opportunity, by Your Excellency's Government passing an order in Council,

Council, making the Parsee Marriage & Divorce Act applicable to Bangalore Cantonment and including Bangalore Cantonment within the jurisdiction of the Chief Parsee Matrimonial Court at Madras for the purpose of jurisdiction under the Parsee Marriage and Divorce Act. A perusal of the judgment of His Lordship Mr. Justice Stone, herewith enclosed, will show the hardship and the difficulty, under which the Parsee Residents in Bangalore (whose numbers are fairly large) are suffering, by virtue of the fact, that there is no law relating to their matrimonial relations, applicable to them, and his Lordship has also pointed out that we should move the appropriate Authorities viz. (Your Excellency's Government) to extend the Act and the limits of jurisdiction, in the manner indicated in His Lordship's judgment.

It is, therefore, prayed that Your Excellency's Government may be pleased to extend the Parsee Marriage & Divorce Act, by an order in Council, at the earliest possible opportunity, to Bangalore and to include Bangalore within the jurisdiction of the Chief Parsee Matrimonial Court of Madras. The petition filed by my client Mr. D.K. Belgamwala has been retained by His Lordship Mr. Justice Stone on the file of the High Court of Madras, until we move the appropriate Authorities to extend the Act, and the limits of jurisdiction in the manner indicated in His Lordship's judgment.

It is, therefore, prayed that early orders may be passed by Your Excellency's Government, making the Parsee Marriage & Divorce Act applicable to Bangalore and including Bangalore within the jurisdiction of the Chief Parsee Matrimonial Court at Madras.

Your's Excellency's Obedient
Servant,
Sd. Manuel A. T. Coelho,
Counsel for Mr. D.K. Belgamwalla.

Enc.
1. Certified copy of the Judgment of
His Lordship Mr. Justice Stone.

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"C O P Y"

RT 2/11/

"A"

In the High Court of Judicature at Madras
Original Matrimonial Jurisdiction.

27th day of October, 1933.

The Honourable Mr. Justice Stone.

(2964 and O.M.S. No. 15 of 1933.
Applns. No. 2893/1933.

Between:-

Mr. B. K. Belgamwalla .. Petitioner.

a n d

Mrs. R.D.Belgamwalla & others. Respondents.

H. M. Maneckji & another .. Co-Respondents.

Judgment.

Application no. 2893 of 1933

This summons raises a point of some novelty and importance and, owing to the ingenious argument addressed to me by Mr. Coelho, Counsel for the Petitioner, of some difficulty. I am not sure that the difficulty is inherent in the matter and is not caused by the ingenuity of the argument.

The facts are as follows: This is a petition wherein the husband seeks for dissolution of his marriage with the Respondent, and custody of the child. In paragraph 5 of his petition he alleges, "the Petitioner and the respondent, who are both Parsis by birth, were married on the 10th July 1924 at Bangalore according to the Parsi Matrimonial Rites". The petitioner at all material times has resided at the Cantonment, Bangalore. The respondent at present resides in Bangalore City. The parties were married in Bangalore City. After the marriage they have lived until the 9th of June 1933 in Bangalore Cantonment. The result of that is that at all material times the parties were residing in Bangalore Cantonment until the parties ceased to live together; and at the date of the filing of the petition, viz., 6th August 1933, the respondent was residing in Bangalore City.

Under the Parsi Marriage and Divorce Act (XV of 1865) it is provided by Section 26,

> "All suits instituted under this Act shall be brought in the court within the limits of whose jurisdiction the defendant resides at the time of the institution of the suit".

Stopping there, I observe that at the time of the institution of the suit, the respondent resided in Bangalore City.

"When

"When the defendant shall at such time have left British India, such suit shall be brought in the Court at the place where the plaintiff and defendant last resided together".

"At such time" refers to at the time of the institution of the suit, and at such time the defendant had not left British India because she had not been in British India at any time during the marriage. If, on the other hand, it can be found as a fact that she had left British India, then the suit would be required to be brought in the Court at the place where the plaintiff and the defendant last resided together, and that would be Bangalore Cantonment. So that, the alternatives are that this suit must be instituted either in Bangalore Cantonment or in Bangalore City. The jurisdiction of this High Court is founded subject to what I shall say hereafter, upon the broader aspect of the case, and assuming for the moment that the Parsi Marriage and Divorce Act is applicable upon sections 16, 17 and 19 of that act (and the rules made under that Act). The effect of those sections and rules, bearing in mind the local rules and orders made under this Act - Judicial Notification No.509 of the 23rd November 1899 - is that all the districts in the presidency of Madras are grouped into one district for the purpose of jurisdiction, and jurisdiction over the whole of that district is given to this Court. That means that the High Court is the Parsi Chief Matrimonial Court for the presidency of Madras. The Presidency of Madras is British India and does not include foreign countries outside British India. It has been held so far as Cantonments are concerned in 12 Mad. 39 that the Civil and Military Station of Bangalore is not British territory, and a similar decision was arrived at with regard to the Cantonment of Secunderabad by the Privy Council in 60 Law Reports, Indian Appeals 167. The application of Acts passed by the Legislature of British India including the Parsi Marriage and Divorce Act is effected by orders made under the Indian (Foreign Jurisdiction) Order in Council, 1902, when it is desired to apply these acts to the Bangalore Cantonment. Various Acts have been so locally applied by Order No.261 - I dated 24th April 1929 by the Governor General in Council. That order schedules a considerable

number

number of Acts and the list of those Acts does not include the Parsi Marriage and Divorce Act. The result in my opinion - and I do not think that Mr. Coelho in his ingenuous argument really contests this position - is that where the parties, being Parsis, to a matrimonial suit reside as above-stated, they are residing in a foreign district, and not within this presidency and therefore outside the limits of the district over which this Court on its Matrimonial side is given jurisdiction. Therefore this Court has no jurisdiction to try a petition for dissolution if the Parsi Marriage and Divorce Act is applicable to the conduct of that petition; nor, so far as I know, has any other Court in British India or elsewhere power to try such a matter in such circumstances assuming such premises. But it is said that the Parsi Marriage and Divorce Act does not apply it does not apply because it is not scheduled to the order above referred to; as it does not apply, one can ignore it: and, ignoring it, one can go back either to the Indian Divorce Act or to the broad general principles of justice, equity and good conscience or common law and seize jurisdiction in either one or other of those ways.

I will now deal with the argument under two heads. First, I will assume for the moment that one is considering whether this Court has jurisdiction under the Indian Divorce Act. The argument is put thus. Courts in England have decided that the Divorce Court will entertain petitions where one or other of the parties or both is not a professing christian. Matters have come before that Court and have been determined where one person was a Japanese, and it is said that the test there laid down when considering whether the Court will exercise jurisdiction is whether the Court is dealing not with professing christians only but with persons whose marriage customs are identifiable in principle with those of christians and, in particular, whether the parties are monagamous. I should have felt it my duty to have examined very carefully that a statement of the practice in the English Courts were it not for the fact that the jurisdiction of Courts in England and the Jurisdiction of Courts in India are not necessarily conterminous. In India when considering this question

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of jurisdiction I consider it my duty to look at the Indian Divorce Act. That Act commences with the preamble "Whereas it is expedient to amend the law relating to the divorce of persons professing the Christian religion and to confer upon certain Courts jurisdiction in matters matrimonial, it is hereby enacted as follows: * * Section 2, Nothing hereinafter contained shall authorise any Court to grant any relief under this Act except in cases where the petitioner or respondent professes the Christian religion.
That being so, it seems to me that I would be exposing these parties t a very grave risk if I accept a jurisdiction for this Court notwithstanding that provision by holding that, where the Act says "professin the Christian religion", it does not mean what it says. I have had occasion several times in this Court to refer to the golden rule for the interpretation of statutes. It is a very simple rule and it is this: that a statute shall be construed primarily by giving each word used in the statute its ordinary plain grammatical meaning and, even if that results in nonsense or injustice, if the meaning is plain the Court should not depart from it. Now, "a person professing the christian religion" does not include a Parsi, and that being so, I am of the opinion that I cannot exercise jurisdiction over these Parsis in a matrimonial suit by relying upon any power vested in me by the Divorce Act.

Then, it is said, even if that be so, still Courts in British India have not had any power taken away from them by the Divoree Act. It may be that they have not got a jurisdiction in matters of this order conferred upon them by the Divorce Act, but they have not had taken away from them the powers which they previously had, and it is said that all Courts in British India have the wide general powers of trying anything in accordance with the principles of common law and in accordance with the principles of justice, equity and good conscience, that it is wrong to deny these people their remedy and that the Court should therefore seize jurisdiction by looking at those broad general principles. In support of that contention certain observations made at page 309 in 13 Bom. are relied upon. I myself do not read that ca as supporting the ~~xxx~~ contention urged by Mr. Coelho but such as it

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is I will quote from page 309:

"Sir Erskine Perry in 1843, as Judge of the late Supreme Court, laid down the broad principle that Parsis were subject to the ecclesiastical jurisdiction of the Court on disputes arising out of the marriage contract. But the Privy Council reversed this decision (6 Moo. I.A.348) and held that the ecclesiastical jurisdiction extended only to Christians in questions of the restitution of conjugal rights. Their Lordships, however, at the same time intimated that the Supreme Court on its civil side might possibly administer some kind of remedy for the violation of the duties and obligations arising out of the matrimonial union between Parsis. The High Court inherited all the powers of the Supreme Court, and was also specially empowered in the exercise of its ordinary origina civil jurisdiction to "try suits of every description". Would not this wide jurisdiction cover such cases as are not within the jurisdiction of the special Parsi Court ? It must be remembered that if this power is not wide enough to cover the present cases, the parties would be practically without any remedy. They would be relegated to their Panchayat forum, which has long been without authority even as a domestic tribunal, and now hardly exists at all. This was not the intention of Government when the High Courts were established. Sir C. Word in his letter of May 14th 1862, accompanying the Letters Patent constituting the High Court of Bombay, refers to the Privy Council's decision I have cited, and says the object of the charter was to do away with all such limitations and to invest the High Court with power to determine cases of every description and to apply a remedy to every wrong. I think, therefore, the words "to try suits of every description" comprise matrimonial suits, subject of course to the provisions of the the Parsi Marriage Act, which assigns to a special tribunal most of the questions incident to the matrimonial contract, but not the questions involved in the present suit".

Now it will be seen that, if I follow in every particular what is there said, I should still have to hold that there is no Court

to

to try this case. What I am considering is the question of whether this is the Court and not whether there is any remedy. This Court has all the powers that any Court could have within the Madras Presidency as matters stand at present. It includes the whole of the Madras Presidency and it could not include any more unless and until the Parsi Marriage and Divorce Act has been applied to Bangalore. But it is urged that as the Parsi Marriage and Divorce Act has not been applied to Bangalore and as, therefore, there is no special tribunal under the Parsi Marriage and Divorce Act, this Court should accept jurisdiction under the broad and general principles outlined in that citation. It seems to me, however, that this matter has been authoritatively decided by the Privy Council in the case reported in 10 Moore P.C.Cases 375 where it was held, as indicated in the citation I have made from 13 Bombay, that, where in a suit for restitution of conjugal rights, it appears that the parties are Parsis, the Court has no jurisdiction to administer towards them the Ecclesiastical Law. That, so far as I know, is an authority that has never been set aside and that ~~authority~~ authority is binding upon me. I note what is said in 13 Bombay at page 310, that is to say, that it has been expressed administratively that the Letters Patent constituting the High Court, Bombay, was intended to do away with the sort of limitation indicated by the Privy Council decision, but I know of no principle which enables me to depart from a clear ruling of the Privy Council merely because it has stated administratively that some character was intended to do away with the limitation expressed in a Privy Council decision. But I think the matter can be placed on a broader basis than that. This Court prior to the passing of the Indian Divorce Act and prior to the passing of the Parsi Marriage and Divorce Act had got the jurisdiction conferred upon it by the old rules of the Ecclesiastical Courts; that is to say, the jurisdiction which an Ecclesiastical Court would have exercised in England, might, I think, have been exercised by a Matrimonial Court in India. The Privy Council decision held in terms that that jurisdiction, based as it was on Canon Law, applied

only

only to suits where the parties were christians, the petitioner or the respondent as the case may be, and it did not apply to cases where the party was a Parsi. If that be so at that time it seems to me that it would be necessary before this Court can be given jurisdiction for that jurisdiction to be specifically extended. Efforts have been made to extend it. It was extended by the Divorce Act so far as Christians are concerned in many particulars. It has been extended to Parsis by the Parsi Marriage and Divorce Act. Unfortunately the latter act has left out the position of Parsis who have been residing & in a Cantonment. That, in my opinion, leaves parties like the present in the unhappy position of having no adequate remedy. The Divorce Act in the case of christians has not left out their cases and this Court frequently exercises the jurisdiction in their cases. Unless there are reasons of high policy, of which I know nothing, it would seem desirable to remove this apparent omission. That, however, is a matter for the appropriate authorities. I think I am justified in saying that this is in my opinion, as at present advised, a case which they may favourably consider with a view to seeing whether it is not desirable firstly to extend this Act to the cantonments and secondly to include within the jurisdiction of this Court that extended area.

That disposes of the summons, save as regards the precise steps that should now be taken having in view the conclusion I have come to. I am asked to strike out the petition. I do not however think that that is the right course for me to adopt. The petition as it stands discloses a case. The difficulty is not want of substantive but of adjective law. Under Order VII Rule 10 where there is another Court to entertain this matter I could return this plaint for it to be filed in that Court. In view of my conclusion, viz., that there is no other Court, I should not be justified in doing that As there is, in my opinion, a cause of action disclosed in the petition, though I am not competent to try that cause of action, I do not think the correct procedure would be to strike it out. What

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I think I should do is to declare that I have no jurisdiction to entertain this petition but give the petitioner liberty to apply to me for transfer under Order VII Rule 10 if and when he can satisfy me that there is a Court that can try this petition. That will enable him to take the proper steps, if he is so advised, to move the appropriate authorities to extend the Act and the limits of jurisdiction in the manner above indicated. The applicant will be entitled to costs of the application as between attorney and client.

Id. G.S.
27-10-1933.

Application No. 2964 of 1933.

Before I delivered Judgment in the other application the Counsel for the Respondent endeavoured to get me to deal with this application for alimony. I should have dealt with this applicatio before I delivered judgment in the main matter. I think it is onl fair that I should treat this application as made before I have disposed of the question of jurisdiction. If it had been made before that question was determined I should have been in a position to award alimony. It has been decided in England that a husband cannot refuse to pay and give security for his wife's costs on the ground that he disputes the jurisdiction - 1923 Pro. 128. But in this case the person asking for alimony is the same person that is asking for the petition to be struck out on the ground that the Court has no jurisdiction. It does not seem to me right that a party should at the same time say with one voice the Court has no jurisdiction and with another voice the Court has jurisdiction. That being so, I do not think I would be justified in awarding her alimony. A party cannot approbate and reprobate. It would be different if the other side were contesting jurisdiction. The application for alimony fails and is dismissed. No order as to costs.

Id. G.S.
27-10-1933.

Certified to be a true copy.
Dated this 27th day of November 1933.

Sd. * * *
Bench Clerk O.S.

27/11/34 BJ

S.N.3

13

No. 1637 Pub. 5
243-1933.

24

From

The Hon'ble Lieut. Colonel C. T. C. Plowden, C.I.E.,
Resident in Mysore.

To

The Political Secretary to the Government of India,
Foreign and Political Department, New Delhi.

Dated Bangalore, the 27th Feby. 1934.

Application of the Parsi Marriage and Divorce Act to the Civil & Military Station, Bangalore.

Sir,

S.N.1/a
+S.N.2.

I have the honour to forward two memorials, one from Mrs. R.D. Belgamwala, the Respondent in O.M.S. No.15/1933 on the file of the High Court of Judicature at Madras, and the other from Mr. M.A.T. Coelho, B.A., B.L., Advocate for the Petitioner in the same suit, addressed to His Excellency the Viceroy and Governor General in Council, praying for the application of the Parsi Marriage and Divorce Act, 1865, (Act XV of 1865) to the Civil and Military Station of Bangalore and for the constitution of a proper Matrimonial Court to deal with matters arising under the Act as applied.

+ Page 173 of V (I) Consol Acts Removed.

2. Mr. Justice Stone in his judgment in O.M.S.No.15 of 1933, a copy of which is appended to the Memorials, observed that the Madras High Court had no jurisdiction to entertain the petition for dissolution of the marriage of the parties, in the absence of the application of Act XV of 1865 to the Civil & Military Station, Bangalore, and the inclusion of that area within the jurisdiction of the High Court of Judicature at Madras; and also that the Petitioner and Respondent in the case (the Memorialists) were in the unhappy position of having no adequate remedy. He also expressed the opinion that the authorities concerned should consider whether it is not desirable to apply the Act in question to the Civil and Military Station and to include this area within the jurisdiction of the Parsi Chief Matrimonial Court of Madras.

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3. In view of the facts brought to light in the Judgment I consider that the Act should be applied to the Civil and Military Station of Bangalore, and I am also of the opinion that this area should be included within the jurisdiction of the Parsi Chief Matrimonial Court of Madras. That Court, by virtue of its status and experience in dealing with such suits, is the most competent Court to deal with matrimonial disputes. I am decidedly of the opinion that, in the interests of the parties to such suits, it is preferable that that Court should exercise jurisdiction rather than the District Judge of the Station. Madras is more accessible to the residents of Bangalore than to those of many parts of the Madras Presidency; and I do not think that the Parsis of Bangalore would suffer any great hardship in having to go to Madras.

Para. 12 of note.

Para. 12 of note

4. I enclose a draft of the necessary notification for favour of approval.

I have the honour to be,

Sir,

Your most obedient servant,

Lieut. Col.,
RESIDENT.

B. 22/2/24.

BJ

13/2

26

No.

GOVERNMENT OF INDIA.

Foreign & Political Department.

New Delhi, the Feby. 1934.

NOTIFICATION.

In exercise of the powers conferred by the Indian (Foreign Jurisdiction) Order in Council, 1902, and of all other powers enabling him in that behalf, the Governor General in Council is pleased to direct that the following further amendment shall be made in the schedule to the Notification of the Government of India in the Foreign and Political Department, No. 261-I, dated the 24th April 1929, applying certain enactments to the Civil and Military Station of Bangalore, namely:-

After entry No.10, in column 1, the following entry shall be inserted, namely:-

"10-A. The Parsi Marriage and Divorce Act, 1865 (Act No. XV of 1865)",

and in column 2,

"The Parsi Chief Matrimonial Court of Madras shall be the Court for the purposes of the Act."

Political Secretary to the Government of India.

BJ

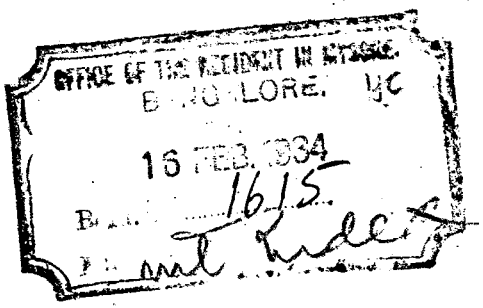
S.M 4

No. 827-B-34 Enc 2.

Office of the Collector,
C & M. Station,
Bangalore, 16th Feb: '34.

27

F O R W A R D E D .



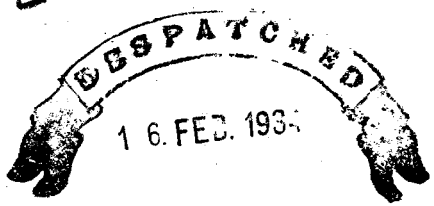
C O L L E C T O R .

16.2.

To t

The Secretary to the Hon'ble
the Resident in Mysore,
Bangalore.

16/2



4/a

28

Letter dated 12th February 1934, from the President, The Bangalore Parsee Zoroastrian Anjuman, No.10 Alexandra House, Bangalore, to the Collector, Civil and Military Station, Bangalore.

S.N.4/b

I have the honour to forward herewith the Resolution passed in General Meeting of the Parsee Anjuman held on the 11th. instant, and a copy of Judgment with a request to forward the same to the Hon'ble Resident with your kind remarks.

"Copy".

M. Seethapathy
16-2-34.

29 4/4

The Bangalore Parsee Zoroastrian Anjuman.

12. LAVELLA ROAD.

Bangalore, 12th. February 1934.

RESOLUTION.

The Parsee Anjuman of Bangalore at the General Meeting of all Parsee British Subjects resident at Bangalore held on 11-2-34 convened to consider the remarks made by His Majesty's High Court of Judicature at Madras in the recent judgment delivered in the case of Mr. D. K. Belgaumwalla versus Mrs. R. D. Belgaumwalla and others, Application No.2893 of 1933, viz. that neither the Hon'ble High Courtof Madras nor any British Court in Bangalore Cantonment had jurisdiction to deal with matters relating to Marriage and Divorce of Parsee British subjects resident in Bangalore Cantonment, - - unanimously resolved that this great hardship and handicap be brought to the notice of Government and in view of the fact that there is a fairly large number of Parsee Zoroastrian British subjects resident in the Native State of Mysore including Bangalore Cantonment, the Governor-General of India in Council be apprised of this hardship and be requested to extend the provisions of the Parsee Matrimonial and Divorce Act of 1865 (Act XV of 1865) to Parsee British subjects resident in Bangalore Cantonment and to constitute a Parsee Matrimonial Court under the said Act by conferring Jurisdiction on the British Court at Bangalore Cantonment if Government can conveniently do so or on the High Court of - - Judicature at Madras which is the Chief Parsee Matrimonial Court in the Madras Presidency, nearest and most easily accessible by the Parsee British subjects so that they may take recourse to the same, and that a Memorial be forwarded through the Collector to the Hon'ble Resident of Bangalore to the Governor-General in Council with the above prayer.

D. Cassaraj
President Parsee Zoroastrian Anjuman

30 (4/c

IN THE HIGH COURT OF JUDICATURE AT MADRAS.

Original Matrimonial Jurisdiction.

27th Day of October 1933.

The Honourable Mr. Justice S T O N E.

O.M.S.No.15 of 1933.

Applications Nos.2893 & 2964 of 1933.

Between:-

D.K. Belgamwalla. ... Petitioner.

And

Mrs. R.D.Belgamwalla & others. Respondents.

Application No. 2893 of 1933.

JUDGMENT.

This summons raises a point of some novelty and importance and, owing to the ingenious argument addressed to me by Mr. Coehlo, Counsel for the Petitioner, of some difficulty. I am not sure that the difficulty is inherent in the matter and is not caused by the ingenuity of the - argument.

The facts are as follows: This is a petition wherein the husband seeks for dissolution of his marriage with the Respondent, and custody of the child. In paragraph 5 of his petition he alleges, "The petitioner and the respondent who are both Parsis by birth, were married on the 10th - July 1924 at Bangalore according to the Parsi Matrimonial Rites." The petitioner at all material times had resided at the cantonment, Bangalore. The respondent at present resides in Bangalore City. The parties were married in Bangalore City. After the marriage they have lived until the 9th June 1933 in Bangalore Cantonment. The result of that is that at all material times the parties were residing in Bangalore Cantonment until the parties ceased to live together, and at the date of the filing of the petition,

viz.,

viz., 6th August 1933, the respondent was residing in Bangalore City.

Under the Parsi Marriage and Divorce Act (XV of 1865) it is provided by section 26,

"All suits instituted under this Act shall be brought in the Court within the limits of whose jurisdiction the defendant resides at the time of the - - institution of the suit".

Stopping there, I observe that at the time of the institution of the suit, the respondent resided in - Bangalore City.

"When the defendant shall at such time have left British India, such suit shall be brought in the Court at the place where the plaintiff and defendant last - resided together."

"At such Time" refers to at the time of the institution of the suit, and at such time the defendant had not left British India because she had not been in British India at any time during the marriage. If, on the other hand, it can be found as a fact that she had left - - British India, then the suit would be required to be - brought in the Court at the place where the plaintiff and the defendant last resided together, and that would be Bangalore Cantonment. So that, the alternatives are that this suit must be instituted either in Bangalore Cantonment or in Bangalore City. The jurisdiction of this High Court is founded subject to what I shall say hereafter upon the braader aspect of the case, and - assuming for the moment that the Parsi Marriage and - Divorce Act is applicable upon sections 16, 17 and 19 of that act and the rules made under that act. The - effect of those sections and rules, bearing in mind the local rules and orders made under this Act - Judicial Notification No.509 of the 23rd November 1899 - is that all the districts in the presidency of Madras are - - grouped -

grouped into one district for the purpose of jurisdiction, and jurisdiction over the whole of that district is given to this Court. That means that the High Court is the Parsi Chief Matrimonial Court for the presidency of Madras. The presidency of Madras is British India and does not include foreign countries outside British India. It has been held so far as cantonments are concerned in 12 Mad. 39 that the Civil and Military Station of Bangalore is not British territory, and a similar decision was arrived at with regard to the cantonment of Secunderabad by the Privy Council in 60 Law Reports, Indian Appeals 167.
The application of Acts passed by the Legislature of British India including the Parsi Mafriage and Divorce Act is effected by orders made under the Indian (Foreign Jurisdiction) Order in Council, 1902, when it is desired to apply these acts to the Bangalore Cantonment. Various Acts have been so locally applied by Order No.261 - 1 dated 24th April 1929 by the Governor General in Council. That order schedules a considerable number of Acts and the list of those Acts does not include the Parsi Marriage and Divorce Act. The result in my opinion - and I do not think that Mr. Coehlo in his ingenuous argument really contests this position - is that where the parties, being Parsis to a matrimonial suit reside as abovestated, they are residing in a foreign district, and not within this presidency and therefore outside the limits of the district over which this Court on its Matrimonial side is given jurisdiction. Therefore this Court has no jurisdiction to try a petition for dissolution if the Parsi Marriage and Divorce Act is applicable to the conduct of that petition; nor, so far as I know, has any other Court in British India or elsewhere power to try such a matter in such circumstances assuming such

premises

premises. But it is said that the Parsi Marriage and Divorce Act does not apply it does not apply because it is not scheduled to the order above referred to: as it does not apply, one can ignore it: and, ignoring it, one can go back either to the Indian Divorce Act or to the broad general principles of justice, equity and good - conscience of common law and seize jurisdiction in either one or other of those ways.

I will now deal with the argument under two heads. First, I will assume for the moment that one is considering whether this Court has jurisdiction under the Indian - Divorce Act. The argument is put thus. Courts in - England have decided that the Divorce Court will entertain petitions where one or other of the parties or both is not a professing Christian. Matters have come before that Court and have been determined where one person was a - Japanese and it is said that the test there laid down when considering whether the Court will ever exercise jurisdiction is whether the Court is dealing not with professing Christians only but with persons whose marriage customs are identifiable in principle with those of Christians and, in particular, whether the parties are monagamous. I should have felt it my duty to have examined very carefully that statement of the practice in the English Courts were it not for the fact that the jurisdiction of Courts in England and the jurisdiction of Courts in India are not - - necessarily conterminous. In India when considering this question of jurisdiction I consider it my duty to look at the Indian Divorce Act. That Act commences with the preamble----"Whereas it is expedient to amend the law - relating to the divorce of persons professing the Christian religion and to confer upon certain Courts jurisdiction - in matters matrimonial, it is hereby enacted as follows:- Section 2 nothing hereinafter contained shall authorise any Court to grant any relief under this Act except in cases where the petitioner or respondent professes the Christian

54

Christian religion ....
That being so, it seems to me that I would be exposing these parties to a very grave risk if I accept a - jurisdiction for this Court notwithstanding that proviso by holding that, where the Act says "professing the . Christian religion", it does not mean what it says. I have had occasion several times in this Court to refer to the golden rule for the interpretation of statutes. It is a very simple rule and it is this: that a statute shall be construed primarily by giving each word used in the statute its ordinary plain grammatical meaning and, even if that results in nonsense or injustice, if the meaning is plain, the Court should not depart from it. Now, "a person professing the Christian religion" does not include a Parsi, and that being so, I am of the opinion that I cannot exercise jurisdiction over these Parsis - in a matrimonial suit by relying upon any power vested in me by the Divorce Act.

Then, it is said, even if that be so, still Courts in British India have not had any power taken away from them by the Divorce Act. It may be that they may have not got a jurisdiction in matters of this order conferred upon them by the Divorce Act, but they have not had - taken away from ~~the~~ them the powers which they previously had, and it is said that all Courts in British India have the wide general powers of trying anything in accordance with the principles of common law and in accordance with the principles of justice equity and good conscience, that it is wrong to deny these people their remedy and that the Court should therefore seize jurisdiction by looking at those broad general principles. In support of that contention, certain observations made at page 309 in 13 Bom. are relied upon. I myself do not read that case as supporting the contention urged by

Mr.

35

Mr. Coehlo but such as it is I will quate from page 309:

"Sir Erskine Perry in 1843, as Judge of the late Supreme Court, laid down the broad principle that Parsis were subject to the ecclesiastical jurisdiction of the Court on disputes arising out of the marriage contract. But the Privy Council reversed this decision (6 Moo. I.A. 348) and held that the ecclesiastical jurisdiction extended only to Christians in questions of the - restitution of conjugal rights. Their Lordships, - however, at the same time intimated that the Supreme . Court on its civil side might possibly administer some kind of remedy for the violation of the duties and - obligations arising out of the matrimonial union between Parsis. The High Court inherited all the powers of the Supreme Court, and was also specially empowered in the exercise of its ordinary original civil jurisdiction to "try suits of every description". Would not this wide jurisdiction cover such cases as are not within the jurisdiction of the special Parsi Court? It must be remembered that if this power is not wide enough to cover the present cases, the parties would be practically without any remedy. They would be relegated to their Panchayat forum, which has long been without - - authority even as a domestic tribunal, and now hardly exists at all. This was not the intention of Government when the High Courts were established, Sir C. Word in his letter of May 14th 1862, accompanying the Letters patent constituting the High Court of Bombay, refers to the Privy Council's decision I have cited and says the object of the charter was to do away with all such limitations and to invest the High Court with power to determine cases of every description and to apply a remedy to every wrong. I think, therefore, the words "to try suits of every description" comprise matrimonial suits, subject of course to the provisions of the Parsi Marriage Act, which assigns to a special tribunal -

tribunal most of the questions incident to the matrimonial contract, but not the questions involved in the present suit.

Now it will be seen that , if I follow in every particular what is there said, I should like to hold that there is no Court to try this case. What I am considering is the question of whether this is the Court and not whether there is any remedy. This Court has all the powers that any Court could have within the Madras Presidency as matters stand at present. It includes the whole of the Madras Presidency and it could not include any more unless and until the Parsi Marriage and Divorce Act has been applied to Bangalore. But it is urged that as the Parsi Marriage and Divorce Act has not been applied to Bangalore and as, therefore, there is no special tribunal under the Parsi Marriage and Divorce Act, this Court should accept jurisdiction under the broad and general principles outlined in that citation. It seems to me, however, that this matter has been authoritatively decided by the Privy Council in the case reported in 10 Moore P.C. Cases 375 where it was held as indicated in the citation I have made from 13 Bom. that, where in a suit for restitution of conjugal rights, it appears that the parties are Parsis, the Court has no jurisdiction to administer towards them the Ecclesiastical Law. That, so far as I know is an authority that has never been set aside and that authority is binding upon me.. I note what is said in 13 Bom. at page 310, that is to say, that it has been expressed administratively that the Letters of Patent constituting the High Court, Bombay, was intended to do away with the sort of limitation indicated by the Privy Council decision, but I know of no principle which enables me to depart from a clear ruling of the Privy Council merely because it has been stated administratively that some charter was intended to do away with the limitation expressed in a Privy Council decision, But I think the matter can be placed on a broader basis than that. This

Court -

This Court prior to the passing of the Indian Divorce Act and prior to the passing of the Parsi Marriage and Divorce Act had got jurisdiction conferred upon it by the old rules of the Ecclesiastical Courts; that is to say, the jurisdiction which an Ecclesiastical Court would have exercised in England might, I think, have been exercised by a Matrimonial Court in India. The Privy Council decision held in terms that that jurisdiction, based as it was on Canon Law, applied only to suits where the parties were Christians, the petitioner or the respondent as the case may be, and it did not apply to cases where the party was a Parsi. If that be so at that time it seems to me that it would be necessary before this Court can be given jurisdiction for that jurisdiction to be specifically extended. Efforts have been made to extend it. It was extended by the Divorce Act so far as Christians are concerned in many particulars. It has been extended to Parsis by the Parsi Marriage and Divorce Act. Unfortunately the latter Act has left out the position of Parsis who have been residing in a Cantonment. That, in my opinion, leaves parties like the present in the unhappy position of having no adequate remedy. The Divorce Act in the case of Christians has not left out their cases and this Court frequently exercises the jurisdiction in their cases. Unless there are reasons of high policy of which I know nothing, it would seem desirable to remove this apparent omission. That, however, is a matter for the appropriate authorities. I think I am justified in saying that this is, in my opinion, as at present advised, a case which they may favourably consider with a view to seeing whether it is not desirable firstly to extend this Act to the Cantonments and secondly to include within the jurisdiction of this Court that extended area.

That disposes of the summons save as regards the precise steps that should now be taken having in view the conclusion -

conclusion I have come to. I am asked to strike out the petition. I do not however think that that is the right course for me to adopt. The petition as it stands discloses a case. The difficulty is not want of substantive but of adjective law. Under Order V11 Rule 10 where there is another Court to entertain this matter I could return the plaint for it to be filed in that Court. In view of my conclusion, viz., that there is no other Court, I should not be justified in doing that. As there is, in my opinion, a cause of action disclosed in the petition, though I am not competent to try that cause of action, I do not think the correct procedure would be to strike it out. What I think I should do is to declare that I have no jurisdiction to entertain this petition but give the petitioner liberty to apply to me for transfer under Order V11 Rule 10 if and when he can satisfy me that there is a Court that can try this petition. That will enable him to take the proper steps, if he is so advised, to move the appropriate authorities to extend the Act and the limits of jurisdiction in the manner above indicated. The applicant will be entitled to costs of the application as between attorney and client.

(Intd) G.S.
27-10-1933.

39

Application No. 2964 of 1933.

Before I delivered judgment in the other application the counsel for the respondent endeavoured to get me to deal with this application for alimony. I should have - dealt with this application before I delivered judgment in the main matter. I think it is only fair that I should treat this application as made before I have disposed of the question of jurisdiction, If it had been made before that question was determined I should have been in a position to award alimony. It has been decided in England that a husband cannot refuse to pay and give security for his wife's costs on the ground that he disputes the jurisdiction - 1923 Pro. 128. But in this case the person - asking for alimony is the same person that is asking for the petition to be struck out on the ground that the Court - Has no jurisdiction. It does not seem to me right that a party should at the same time say with one voice the court has no jurisdiction and with another voice the Court has jurisdiction. That being so, I do not think I would be justified in awarding her alimony. A party cannot - approbate and reprobate. It would be different if the other side were contesting jurisdiction. The application for alimony fails and is dismissed. No order as to costs.

(Intd,) G.S.
27-10-1933.

Certified to be a true copy.
Dated this 16th day of November 1933.

Sd/-
Bench Clerk.

R.S.

In The High Court of
Judicature at Madras.

O.M.S. No.15 of 1933.

Applications Nos.2964 & 2893
of 1933.

J U D G M E N T.

dated 27-10-1933.

King & Partri
Madras.

S.N.5 #5

Draft.

No.2215 dated the 23rd March 1934.

From
The Secretary to the Resident.

To
The President,
The Bangalore Parsee Zoroastrian Anjuman,
No.10, Alexandra House,
Bangalore.

Sir,

I am directed to acknowledge ~~the~~ receipt of the resolution dated the 12th February 1934 of the Bangalore Parsee Zoroastrian Anjuman, forwarded to the Collector, C & M Station, Bangalore, with your letter dated the 12th February 1934, for the application to the C. & M. Station of Bangalore of the Parsi Marriage and Divorce Act, 1865, and to say that the resolution has been forwarded to the Government of India.

I have etc.,

14/3

SECRETARY TO THE RESIDENT.

17/3

~~S.N.4/b~~ ante P.U.C.

= S.N.4/a ante ~~Encl. to PUC.~~

S.N.6

16

41

Draft.

No. 2172/Esp dated the 21st March 1934.

From

The Resident.

To

The Political Secy. to the Govt. of India, Foreign and Political Department, New Delhi.

Application of the Parsee Marriage and Divorce Act to the C & M Station, Bangalore.

Sir,

In continuation of my letter No. 1637, dated the 27th February 1934, I have the honour to forward a copy of the resolution dated the 12th February 1934 of the Bangalore Parsee Zoroastrian Anjuman, on the subject mentioned above.

S.N.3 ~~of 4~~. ante

S.N.4/a ante

~~to C.S. & P.W.C~~

I have etc.,

Clare 14/3

for RESIDENT.

14/3.

To Army 17/3

4 - 16/a.

THE BANGALORE PARSEE ZOROASTRIAN ANJUMAN,

12, Lavella Road,
Bangalore, 12th February 1934.

R E S O L U T I O N.

The Parsee Anjuman of Bangalore at the General Meeting of all Parsee British Subjects resident at Bangalored held on 11-2-34 convened to consider the remarks made by His Majesty's High Court of Judicature at Madras in the recent judgment delivered in the case of Mr. D.K. Belgaumwalla versus Mrs. R.D. Belgaumwalla and others, Application No. 2893 of 1933, viz. that neither the Hon'ble High Court of Madras nor any British Court in Bangalore Cantonment had jurisdiction to deal with matters relating to Marriage and Divorce of Parsee British subjects resident in Bangalore Cantonment, unanimously resolved that this great hardship and handicap be brought to the notice of Government and in view of the fact that there is a fairly large number of Parsee Zorastrian British subjects resident in the Native State of Mysore including Bangalore Cantonment, the Governor-General of India in Council be apprised of this hardship and be requested to extend the provisions of the Parsee Matrimonail and Divorce Act of 1865 (Act XV of 1865) to Parsee British subjects resident in Bangalore Cantonment, and to constitute a Parsee Matrimonial Court under the said Act by conferring Jurisdiction on the British Court at Bangalore Cantonment if Government can conveniently do so or on the High Court of Judicature at Madras which is the Chief Parsee Matrimonial Court in the Madras Presidency, nearest and most easily accessible by the Parsee British subjects so that they may take recourse to the same, and that a Memorial be forwarded through the Collector to the Hon'ble the Resident of Bangalore to the Governor-General in Council with the above prayer.

Sd/- ** **
President, Parsee Zoroastrian Anjuman

" C o p y "

Superintendent, Resident's Office.

ASB/17.3

S.M 7

#7

43

No. 142 -I.

Government of India.

Foreign and Political Department.

New Delhi, the 11th April 1934.

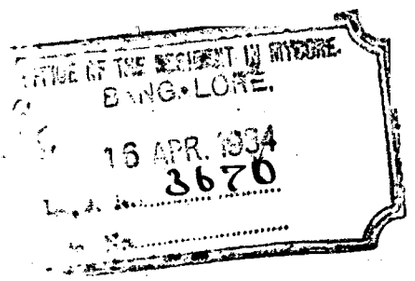
NOTIFICATION.

In exercise of the powers conferred by the Indian (Foreign Jurisdiction) Order in Council, 1902, and of all other powers enabling him in that behalf, the Governor General in Council is pleased to direct that the following further amendment shall be made in the Schedule to the notification of the Government of India in the Foreign and Political Department, No. 261-I, dated the 24th April 1929, applying certain enactments to the Civil and Military Station of Bangalore, namely :-

(5)

In the said Schedule, after entry No. 10, the following entry shall be inserted, namely :-

"10-A.	The Parsi Marriage and Divorce Act, 1865 (XV of 1865).	The Court having jurisdiction in the Civil and Military Station shall be the Parsi Chief Matrimonial Court of Madras."



SD. B.J. GLANCY,

Political Secretary to the Government of India.

Copy to the Hon'ble the Resident in Mysore, for information, with reference to his letter No. 1637/243-1933, dated the 27th February 1934.

(Y)

S.N.3 Cottn.

15/4

By order, etc.,

Assistant Secretary to the Government of India.

S.N.8

No. 3294 Draft. dated 6-5-36

18

Encl

A copy of the notification noted on the margin is forwarded to

No.142-I, dated the 11th April 1934, of the Government of India in the Foreign and Political Department. -- PUC. S.N.7 ante

(1) The Collector and District Magistrate, Civil and Military Station, Bangalore,

(2) The District and Sessions Judge Civil and Military Station, Bangalore,

(3) The Registrar, Court of the Hon'ble the Resident in Mysore, Bangalore.

(4) Messrs. King and Partridge, Solicitors, 7, Kondi Chetty Street, Madras,

(5) M. A. T. Coelho Esqr., B.A., B.L., Advocate, No.9 Law Chambers, High Court buildings, Madras.

(6) The President, Bangalore Parsee Zoroastrian Anjuman, 12, Lavelle Road, Bangalore,

(7) Mrs. R.D. Belgaumwalla, "Amir Munzill", Mackays Gardens, Cathedral Post Office, Madras,

(1) for information.

(2) -do-

(3) -do-

(4) with reference to their letter dated the 2nd December 1933, enclosing a petition from Mrs R.D. Belgaumwalla & S.N.1 - ~~Collin.(Y)~~ ante

(5) With reference to his memorial + S.N.2 - ~~Collin.'Y'~~ ante to His Excellency the Viceroy and Governor General, dated the 4th December 1933, on behalf of Mr. D.K. Belgaumwalla, forwarded through this Residency,

(6) with reference to his letter # S.N.4/a - Collin.'Y' ante dated the 12th February 1934 to the

the Collector, Civil and Military

Station, Bangalore.

---

x (7) for information.

The d.o. correspondence cannot be referred to in this official chapter.

Clone 28/4

Secretary to the Resident.

KC
26/4/34
D.C.N.
28.4.34

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Clone
29/4

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Clone
30/4

ed
ACR
2/5.

40 [illegible]

No. 163 - I.

Government of India.

Foreign and Political Department.

New Delhi, the 11th April 1933.

NOTIFICATION.

In exercise of the powers conferred by the India (Foreign Jurisdiction) Order in Council 1902, and of all other powers enabling him in that behalf, the Governor General in Council is pleased to direct that the following further amendment shall be made in the Schedule to the notification of the Government of India in the Foreign and Political Department, No. 831-I, dated the 24th April 1923, applying certain enactments to the Civil and Military Station of Bangalore, namely :-

(5)

In the said Schedule, after entry No.10, the following entry shall be inserted, namely :-

"10-A.	The Naval Marriage and Divorce Act, 1865 (XV of 1865).	The Court having jurisdiction in the Civil and Military Station shall be the Naval Chief International Court of Madras."

Sd/- D.T. Gloony,

Political Secretary to the Government of India.

" C o p y "

o/c

Superintendent, Resident's Office, Bangalore.

RH 45.

KM/30.4

Urgent

S. N. 9.

47

The Bangalore Parsee Zoroastrian Anjuman.

1942

12. LAVELLA ROAD.

Bangalore, 12th February 1935.

No. 268

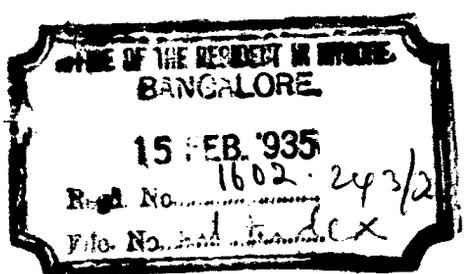
To,

The Secretary,

To The Honourable Resident in Mysore

C. & M. Station

Bangalore



Sir,

S. N. 7 / 1943 (1)

By Notification of the Governor General in Council No. 142-I of 11th april 1934, the Parsee Matrimonial and Divorce Act of 1865 was applied to the C & M. Station & the Parsee chief matrimonial Court of Madras constituted as the court having jurisdiction in Bangalore.

Section 7 § of the Act provides that a registrar should be appointed under this act by the Chief Justice High Court or local Government. I shall feel oblige to inform me whether a Registrar has been appointed under this Provision for Bangalore, if not necessary action may be taken as there is a marriage taker place on the 10th of February 1935 pending Registration.

Thanking you for an early reply

I remain

yours faithfully

J. C. Shroff

Hon. Sec. Bangalore P. Anjuman

§ Page 175 of Vol. I of unrepealed General Acts (not printed)

S.N.10

43

Issued
28/2/35

DEPARTMENT.

BRANCH.

File No.

Serial No.

Draft Letter ~~Memorandum~~ ~~Telegram~~

No. F.243/33 Dated 28th Feb. 1935

Class for telegrams	Ordinary / Express / Urgent* / Priority / Clear Line†

*Only for Foreign Telegrams.

†Not for Foreign Telegrams.

To be issued on	Issued on
1st Reminder	
2nd Reminder	
3rd Reminder	
Heading:	
Case or Diary No.	
If post copy of telegram required	
Date of despatch of above	
List of enclosures	

(Code word for telegrams.)

To

The Registrar of the High Court of Judicature at Madras.

Subject:- Appointment of a Registrar of Marriages for Bangalore under the Parsi Marraige and Divorce Act.

Sir,

I am directed to refer to notification of the Govt. of India in the Foreign and Political Deptt. No.142-I, dated the 11th April 1934, and to forward a copy of letter No.268, dated the 12th Feb. 1935, received from the Hon. Secretary of the Bangalore Parsee Zoroastrian Anjuman. In areas subject to the jurisdiction of the Parsi Chief Matrimonial Court of Madras the authority competent to appoint a Registrar of (Parsi) Marriages appears to be the Chief Justice of the Madras High Court. Now that the Parsi Marriage and Divorce Act, 1865, has been applied to the C. & M. Station of Bangalore and the Station brought under the jurisdiction of the Parsi Chief Matrimonial Court of Madras, I am to request that if the Hon. the Chief Jusitce sees no objection, the Registrar of (Parsi) Marriages for

S. 5.
MGIPC—S1—158(Genl)MFP—(M-1933)—3-5-34—50,000 Pads.

Madras may be empowered, under the Act x as applied to the C. & M. Station of Bangalore, to exercise similar functions in the ~~said~~ C. & M. Station.

I have etc.,

27/2.

Secretary to the Resident.

26/2

27/2.

S. N. 11

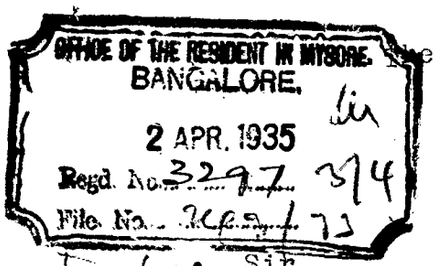
50

R.O.C.No.960-B-1/35.

From

G.S. White Esquire, (Solicitor),

Registrar, High Court, Madras.



The Secretary to the Hon'ble the Resident in

Mysore, Bangalore.

Dated 1st April 1935.

Sir,

Appointment of a Registrar of Marriages under the Parsi Marriage and Divorce Act in the Civil and Military Station, Bangalore.

S.N. 10 Reference: Your letter No.F.243-33/R.O.1, Conf. 48 dated 28th February 1935.

I am directed to state that the Hon'ble the Chief Justice has no objection to the Registrar of Parsi Marriages for Madras being empowered by a competent authority to exercise the function of the Registrar of Marriages for Parsis under the Act in the Civil and Military Station, Bangalore.

I have the honour to be,

Sir,

Your most obedient servant,

Registrar.

V.S.

116

J. No 12

22.ct. 35

Issued 16/4/35

S.N.9 / Cov.A.47 (Y)

S.N.11 / Cov.A.50 (Pou.C)

PROCEEDINGS OF THE HON. THE RESIDENT IN MYSORE.

No. F.243-33 / R.O.1 — Bangalore, 26th April 1935

Read:-

(1) Letter from the Hon. Secretary of the Bangalore Parsee Zoroastrian Anjuman, dated the 12th Feb 1935.

(2) Letter from the Registrar of the High Court of Judicature at Madras, R.O.C.No. 960-B-1/35, dated the 1st April 1935.

Order

In exercise of the powers conferred by section 7 of the Parsi Marriage and Divorce Act, 1865, as applied to the Civil and Military Station of Bangalore, the Hon. the Resident in Mysore is pleased to appoint the Registrar of Parsi Marriages ~~for the time being~~ for Madras to be the Registrar of Parsi Marriages for the said Station.

19/4.

Secretary to the Resident

To

The Registrar of Parsi Marriages, Madras, through the Registrar of the High Court, Madras.

The Registrar, High Court, Madras.

The District Magistrate, C. & M. Stn. Bangalore.

The Hon. Secretary, Bangalore Parsi Zoroastrian Anjuman, 12, Lavalle Road, B'lore.

The Manager, Residency Press, for publication in the Residency ~~Press~~ order.

24/4

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